



## Senate

General Assembly

**File No. 78**

*January Session, 2001*

Substitute Senate Bill No. 1078

*Senate, March 29, 2001*

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT PROTECTING PURCHASERS OF HOME HEATING OIL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (a) On or after November 1, 2001, no person, firm  
2       or corporation shall engage in the retail sale of home heating oil  
3       without a certificate of registration as a home heating oil dealer issued  
4       pursuant to this section.

5       (b) Each person, firm or corporation seeking registration as a home  
6       heating oil dealer shall apply annually for a certificate of registration  
7       with the Department of Consumer Protection on forms prescribed by  
8       the Commissioner of Consumer Protection. Each applicant shall pay a  
9       registration fee of one hundred dollars. The commissioner shall require  
10      all applicants for registration as a home heating oil dealer to provide  
11      evidence of general liability insurance coverage and insurance that  
12      covers clean up costs associated with any oil spill caused by such  
13      applicant as a registered dealer. Each registered dealer shall provide  
14      the department with evidence of each renewal of or change to such

15 insurance coverage not later than five days after such renewal or  
16 change during the period of registration, which renewal or change  
17 shall meet the requirements of this subsection.

18       Sec. 2. (NEW) A contract for the retail sale of home heating oil that  
19 offers a certain price or service, whether known as capped, fixed price  
20 or other similar terms, shall be in writing. The effect of any term or  
21 condition that could lead to a limitation, exception or variance from  
22 the price or service provided for in the contract shall be explained in a  
23 disclosure. Such disclosure shall immediately follow the language  
24 concerning the price or service that could be affected and shall be  
25 printed in no less than twelve-point boldface type of uniform font in  
26 an easily readable style.

27       Sec. 3. (NEW) The Department of Consumer Protection shall, at least  
28 annually, and as frequently as the Commissioner of Consumer  
29 Protection deems necessary, test and certify as accurate any fuel  
30 dispensing meter used by any home heating oil dealer registered  
31 pursuant to section 1 of this act.

32       Sec. 4. (NEW) Any person, firm or corporation required to register  
33 as a home heating oil dealer pursuant to section 1 of this act that offers  
34 plumbing and piping work or heating, piping and cooling work shall  
35 submit evidence, deemed satisfactory by the Commissioner of  
36 Consumer Protection, when registering, that such person, firm or  
37 corporation subcontracts with or employs only persons licensed or  
38 registered pursuant to chapter 393 of the general statutes to perform  
39 such work. Such person, firm or corporation shall attest, when  
40 applying for registration as a dealer pursuant to section 1 of this act,  
41 that all plumbing and piping work or heating, piping and cooling  
42 work shall be performed in accordance with the provisions of chapter  
43 393 of the general statutes.

44       Sec. 5. (NEW) The Department of Consumer Protection may revoke  
45 or suspend any certificate of registration issued pursuant to section 1

46 of this act upon a finding of a violation of the provisions of section 1, 2  
47 or 4 of this act.

48       Sec. 6. (NEW) A violation of the provisions of section 1, 2 or 4 of this  
49 act constitutes an unfair trade practice under subsection (a) of section  
50 42-110b of the general statutes.

**GL**       **JOINT FAVORABLE SUBST.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

**State Impact:** Minimal Revenue Gain

**Affected Agencies:** Department of Consumer Protection

**Municipal Impact:** None

### **Explanation**

**State Impact:**

	<b>Annual</b>
<b>Revenue Gain</b>	\$50,900

The bill requires retail home heating oil dealers to register with the Department of Consumer Protection (DCP) and pay an annual \$100 fee for such registration. It is estimated there are 509 retail home heating oil dealers in Connecticut that would be required to register and pay the fee, resulting in an annual revenue gain of \$50,900 (509 x \$100).

Additionally, the bill requires DCP to test, at least annually, the accuracy of any fuel dispensing meter used by any retail home heating oil dealer. Currently, the ten weights and measures staff of the department test these meters, thus specifying the frequency of these tests will have no fiscal impact on the department.

A violation of provisions of this bill is deemed an unfair trade practice. Under the Unfair Trade Practices Act, the Department of

Consumer Protection (DCP) has two methods for resolving complaints, 1) formal administrative hearings; or 2) forwarding the complaint to the Attorney General's office for litigation. If most of the cases are handled administratively by DCP, the workload increase to the Office of the Attorney General is expected to be minimal and can be handled within the agency's anticipated budgetary resources. Under the Unfair Trade Practices Act, civil penalties can be imposed for violations, the extent of the additional revenue cannot be determined, as it would depend upon the number of violations which occurred and the amount of the penalties that are imposed. In the past year DCP has taken action against six dealers for violating the consumers' contracts.

There would be a minimal workload increase for the DCP associated with increased consumer inquiries and complaints and the possible hearings as a result of this bill. This, along with other minimal cost bills, could cause the Department of Consumer Protection to go beyond the anticipated budgetary resources of the agency.

**OLR Bill Analysis**

sSB 1078

***AN ACT PROTECTING PURCHASERS OF HOME HEATING OIL.*****SUMMARY:**

This bill requires all retail home heating oil dealers to register each year with the Department of Consumer Protection (DCP) starting November 1, 2001, and to employ only plumbers and heating, piping and cooling workers licensed or registered by DCP. It requires home heating oil contracts that offer a certain price or service to be in writing, and clearly disclose any term or condition that could change the terms of price or service. It allows DCP to revoke or suspend the registration of any retail home heating oil dealer who violates the bill's provisions, and also makes the violation of those provisions an unfair trade practice. Finally, it requires that DCP test, at least annually, the fuel dispensing meters that dealers use.

EFFECTIVE DATE: October 1, 2001

**ANNUAL REGISTRATION**

Beginning November 1, 2001, each person, firm or corporation engaged in the retail sale of home heating oil must register annually with DCP on forms prepared by the department. Applicants must pay a \$100 registration fee, and show they have general liability insurance and insurance to cover the cost of cleaning up oil spills. Each registered dealer must provide DCP with evidence of any change in, or renewal of, insurance coverage within five days of the change or renewal.

**LICENSED OR REGISTERED EMPLOYEES**

Retail home heating oil dealers offering plumbing and piping, or heating, piping and cooling work, must submit proof upon registration that they employ only DCP-licensed or registered workers. The dealers must attest when registering that all work will comply with state law.

## **CONTRACT REQUIREMENTS**

All contracts for the retail sale of home heating oil that offer a certain price or service, whether called “capped” or “fixed” price, or a similar term, must be in writing. They must disclose, in at least 12-point, boldface type, any term or condition that could cause a change in the base price or service provided. The provision must immediately follow the reference to the affected price or service.

## **PENALTIES**

The bill allows DCP to revoke or suspend a dealer’s registration if he fails to: (1) properly register, (2) prepare a proper contract, or (3) employ licensed or registered workers, as required by the bill. It also makes a violation of these provisions an unfair trade practice under the Connecticut Unfair Trade Practices Act (CUTPA).

## **METER TESTING**

DCP must test, at least annually, or more frequently if the commissioner finds it necessary, the accuracy of any fuel dispensing meter used by any retail home heating oil dealer.

## **BACKGROUND**

### ***Licensed Workers***

Plumbers and heating, piping and cooling contractors and journeymen must be licensed by the DCP to engage in their trades. License holders must carry their licenses with them while on the job, and show them to any properly interested person. No one but the license holder may use the license, and contractors must display their license number on all commercial vehicles used in their business, as well as on printed advertisements, contracts, and business stationery.

The plumbing and piping and the heating, piping, cooling and sheet metal work boards may suspend or revoke a license if the license holder is convicted of a felony, is grossly incompetent, engages in malpractice or unethical conduct, or knowingly makes false, misleading, or deceptive representations regarding his work.

***Unfair Trade Practices***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 17      Nay 0